

PATENTS
CF-007 Reissue

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Reissue Applicants : Stuart A. Fraser et al.
Application No. : 09/859,661
Confirmation No. : 3933
Filed : May 17, 2001
For : AUTOMATED AUCTION PROTOCOL
PROCESSOR

Art Unit : 3622
Examiner : James W. Myhre

New York, New York 10020
April 24, 2006

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

SECOND SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Sir:

Pursuant to 37 C.F.R. §§ 1.56 and 1.97, applicants hereby make the documents listed in Appendix 1 attached hereto of record in the above-identified patent application.

These documents (as well as supporting trial transcripts and trial exhibit evidence) are listed on the accompanying Form PTO/SB/08 (submitted in duplicate) and copies are provided herewith.

The documents in Appendix 1 are of record in the litigation entitled eSPEED, Inc. et al. v. BROKERTEC USA, L.L.C. et al., D. Del., Civil Action No. 03-612(KAJ) (hereinafter "the eSPEED litigation"). The eSPEED litigation involves U.S. Patent No. 6,560,580, which is a division of related U.S. Patent No. 5,905,974 and in which the Defendants have asserted that certain claims of the '580 Patent are invalid and/or unenforceable by reason of alleged inequitable conduct.

As set forth in the Supplemental Information Disclosure Statement dated June 8, 2005, a trial in the eSPEED litigation was held on February 7 to February 17, 2005. A jury verdict as to certain issues, including invalidity, was rendered on February 22, 2005. Five invalidity defenses pertaining to claims 20-24 of the '580 Patent were submitted to the jury: anticipation, obviousness, nonjoinder of inventors, misjoinder of inventors and adequacy of written description. The jury returned verdicts for the patentee as to all of these issues except adequacy of written description, upon which it returned a verdict for the Defendants. Both sides filed motions for judgment as a matter of law, all of which were denied on December 5, 2005. Other issues, including inequitable conduct, were reserved to the Court for decision. On February 22, 2006, the Court issued Post-Trial Findings of Fact and Conclusions of Law finding for the

Defendants on the inequitable conduct issue, and holding the '580 Patent unenforceable.

Appendix 1 hereto is a set of post-trial briefs, oral argument transcripts and court opinions in the eSPEED litigation. Some of the Defendants' briefs were submitted with the Information Disclosure Statement dated June 27, 2005, but are included herein for completeness and convenience.

Appendix 2 hereto comprises the portions of the transcript of the trial in the eSPEED litigation that are cited in the Appendix 1 materials. A table showing where each excerpt is cited in the Appendix 1 materials is included.

Appendix 3 hereto is a set of the Plaintiffs' exhibits introduced during the trial in the eSPEED litigation that are cited in the Appendix 1 materials. A table showing where each excerpt is cited in the Appendix 1 materials is included.

Appendix 4 hereto is a set of the Defendants' exhibits introduced during the trial in the eSPEED litigation that are cited in the Appendix 1 materials. A table showing where each excerpt is cited in the Appendix 1 materials is included.

Final judgment was entered in the eSPEED litigation on April 3, 2006. Applicants expect to appeal the aforementioned rulings. Applicants will assert on appeal, inter alia, arguments which can be found in their Opening Brief in Support Of Motion For Judgment As A Matter Of Law Or, Alternatively, For A New

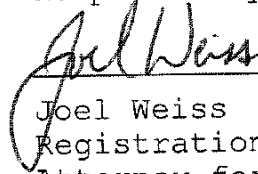
Trial, April 4, 2005, their Reply Brief In Support Of Motion For Judgment As A Matter Of Law Or, Alternatively, For A New Trial, June 27, 2005 and their Proposed Findings Of Fact And Conclusions Of Law, May 23, 2005. Each of these documents is included in Appendix 1.

It is respectfully requested that these documents be: (1) fully considered by the Patent and Trademark Office during examination of this application; and (2) printed on any patent which may issue on this application. Applicants request that a copy of Form PTO/SB/08, as considered and initialed by the Examiner, be returned with the next communication.

Applicants hereby authorize the Director to charge \$180.00 in payment of the fee pursuant to 37 C.F.R. \$1.17(p) to Deposit Account No. 06-1075, Order No. 000718-0007. The Director is also authorized to charge payment of any additional fee that may be due, or credit any overpayment, in connection with this Second Supplemental Information Disclosure Statement, to Deposit Account No. 06-1075, Order No. 000718-0007. A duplicate copy of this Supplemental Information Disclosure Statement is enclosed herewith.

Consideration of the foregoing in relation to this
patent application is respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Joel Weiss", is written over a horizontal line.

Joel Weiss
Registration No. 44,398
Attorney for Applicants

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
Customer No. 1473
1251 Avenue of the Americas
New York, New York 10020
(212) 596-9000

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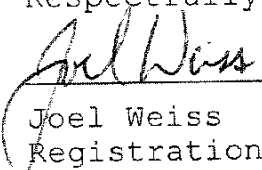
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ROPES & GRAY LLP
Customer No. 1473
1251 Avenue of the Americas
New York, New York 10020
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Sheet	1	of	2	Attorney Docket Number	CF-007 Reissue

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
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Examiner Signature			Date Considered

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APPENDIX 1

LITIGATION BRIEFS AND OPINIONS

***eSpeed, Inc v. Brokertec USA, L.L.C.*, Civil Action No.: 03-612-KAJ, United States District Court, District of Delaware**

- A. Plaintiffs' Opening Brief in Support of Their Motion for Judgment as a Matter of Law or, in the Alternative, for a New Trial (dated April 4, 2005)
- B. Defendants' Opening Brief in Support of Motion for Judgment as a Matter of Law on Invalidity and Non-Infringement (dated April 4, 2005)
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APPENDIX 2

TRIAL TRANSCRIPT EVIDENCE TABLE

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APPENDIX 3

PLAINTIFFS' TRIAL EXHIBITS EVIDENCE TABLE

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PX 1	Col. 12, lns. 47-48	G42
PX 1	Col. 12, lns. 50-52	G42
PX 1	Col. 13, lns. 53-54	G42
PX 1	Col. 14-15	D19
PX 1	Col. 20	C64; M13
PX 1	Col. 20, lns. 4-29	A5
PX 1	Col. 20, lns. 30-57	A5
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PX 9		C3
PX 11		A29; D49
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PX 11	B 225-256	D50
PX 11	B 299-309	D51
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PX 20		D25; D63
PX 20	B 1524	D26
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PX 24	¶4	H22
PX 30	6-7	G54
PX 33	B 2590	C18
PX 33	B 2599	C18; D65; G33
PX 33	B 2592; B 2612	C19
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PX 33	B 2593-95	B21; C20; D66; F19; G55
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PX 33	B 2592-96	C39
PX 33	B 2595	M12
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PX 63		D8; D10; D16; D24; G34; H8
PX 79	ESP 6815	D4; D6; D13; M6
PX 79	ESP 6817	D6; D8; D22; D23
PX 79	ESP 6817-18	D8
PX 79	ESP 6818	D12; D13; D17; D29; G19
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PX 81	ESP 6812	D17; D38
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PX 96		G37

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PX 752E	FN 4240	C44; G55
PX 752E	FN 4331	C44
PX 752E	FN 4351	C44
PX 752E	FN 4375	C44; G68
PX 752E	FN 4383	C50
PX 752E	FN 4339	C53
PX 752E	FN 4337; 4339	C53
PX 752E	FN 4365	C53
PX 752E	FN 4396	C53
PX 752E	FN 4337	C54
PX 752E	FN 4339	C54; G82
PX 752E	FN 4331	D44; G65; G68
PX 752E	FN 4351	D44
PX 752E	FN 4390-91	D44; G68
PX 752E	FN 4392	D44; G68
PX 752E	FN 4252-53	D47
PX 752E	FN 4384	D49
PX 752E	FN 4228	D55
PX 752E	FN 4261	D55
PX 752E	FN 4268	D55
PX 752E	FN 4329	D56
PX 752E	FN 4281	D61
PX 752E	FN 4264	D61
PX 752E	FN 4229-4230	D61
PX 752E	FN 4273-4274	D61
PX 752E	FN 4280	D87
PX 752E	FN 4365	H23
PX 752E	FN 4375	D44; G68

Exhibit	Portions Cited	Cited At
PX 752E	FN 4234	G71
PX 752E	FN 4236	G55
PX 752E	FN 4237	G55
PX 752E	FN 4284	G71
PX 752E	FN 4320	C54
PX 752E	FN 4375	D44
PX 752E	FN 4404	G82
PX 752F		C41
PX 752F	FN 4304	C44; G55
PX 752F	FN 4400	C44; G65
PX 752F	FN 4303	C53; C54; G55
PX 752F	FN 4402	C53; G71
PX 752F	FN 4403	C54
PX 752F	FN 4300	D55; D61
PX 752F	FN 4311	D55
PX 752F	FN 4321	D61
PX 752F	FN 4306	G55
PX 752F	FN 4315	D61
PX 752F	FN 4326	G81; G82

APPENDIX 4

DEFENDANTS' TRIAL EXHIBITS EVIDENCE TABLE

Exhibit	Portions Cited	Cited At
DX 3	¶¶ 8; 19	C19
DX 3	¶¶ 11; 19	C19
DX 3	¶ 21	C21; C47; C52; D57; G81; H33; M14
DX 3	¶¶ 21-22 & Ex. N	C23; C25
DX 3	¶¶ 8-9	C47
DX 3	¶¶ 21-22	C47; G20; G24; G81
DX 3	¶ 4	C47; D9; M10
DX 3	¶ 22	C47; D57; G20; G24
DX 3	¶¶ 4; 26	C51
DX 3	¶ 18	C52; G15; G17; G33-34; G75; G81
DX 3	¶¶ 13; 16	C52
DX 3	¶ 3	C54
DX 3	¶ 25	C62
DX 3	¶ 11	D20; D57; G30; G55
DX 3	¶ 15	D26; D64
DX 3	¶ 26	D41; D58; M11
DX 3		D53; G74; H27; M14
DX 3	¶¶ 4-7	D56; G78; G79
DX 3	¶ 8	D56; D57; G16; G20; G55; G75
DX 3	¶¶ 9-10	D57
DX 3	¶ 17	D57; F12; F15
DX 3	¶ 14	D64
DX 3	¶ 16	D64; G55
DX 3	¶¶ 8-10; 17	F11
DX 3	¶¶ 11; 19	F19
DX 3	¶ 19	C37; D66; F6; F9; F11; F12; F33; F34; H24
DX 3	¶¶ 4-11	G25; G73; G77; M14
DX 3	¶¶ 5-10	G32
DX 3	¶ 5	G78

Exhibit	Portions Cited	Cited At
DX 3	¶ 19 & Ex. I	H7
DX 3	¶ 16 & Ex. N	H7
DX 3	922	H31
DX 3	¶ 2	M10
DX 3	¶¶ 4-5	M10; M13
DX 3	¶ 26	M11; M14; M22
DX 3	Exhs. I, J	B20
DX 9	Cols. 18-19	C37
DX 9	Cols. 17-18	C64; D42; M13
DX 9		C40; D1; D48; F3; L2; M3; M10; M13; M15
DX 9	1	M3; M5; M10
DX 9	Col. 18, lns. 29-30	F13; M12
DX 9		L2
DX 9	Col. 1-3	M13
DX 9	Col. 1, lns. 6-11	L2
DX 9	Col. 3, lns. 10-22	M11
DX 9	Col. 18	M14
DX 9	Col. 3, lns. 10-22	M11
DX 9	Col. 8, lns. 47-50	A27
DX 9	Col. 18, lns. 1-10	M25
DX 9	Col. 18, lns. 11-21	M25
DX 9	Col. 18, lns. 29-30	M12
DX 9	Col. 18, lns. 31-32, 33-34, 35-36	M12
DX 10		C17
DX 10	ESP 6099 n. 15, 6101	C40
DX 12	FN 1400	A26
DX 12	2	C45
DX 12		C45; C50; D49; F3; F29
DX 12	FN 140	F6
DX 12	FN 1400	A26; F8; F15; F16; F23; F24; F30; G56
DX 15	Response 51	C34
DX 16	9	B22
DX 16	7	C35
DX 16	7-9	C35

Exhibit	Portions Cited	Cited At
DX 16	6-7	C35
DX 16	6	C35; C36; H14
DX 16	6-10	C37; H14; H15
DX 16	FN 1863	F2; F3; F7; M12
DX 16		F3; F16; F31; H4; H27; M12
DX 16	FN 1865-66	G43; H13; M12; M13
DX 16	FN 1864	M13
DX 23		B19
DX 23	¶¶ 8; 15; Exs. B; L	B19; B22
DX 23	¶ 8	C22
DX 23	¶ 20	B26; B 27; C23; C24; C26; C48
DX 23	¶ 16 & Ex. O	C31
DX 23	¶ 4	C47
DX 23	¶¶ 5; 11	C47
DX 23	¶¶ 5; 20	C47
DX 23	¶ 17; Ex. 5 17	C47
DX 23	¶ 17	C47; C50
DX 23	¶ 12	C50
DX 23	¶ 19	C62
DX 23A		D53; D67; G74; K35; M14
DX 23A	¶ 11	D58; D59; D88; F12; G22; G76
DX 23A	¶ 5	D58
DX 23A	¶ 4	D58; G76
DX 23A	¶ 10	D58; D59; G55; G76
DX 23A	¶¶ 10-11	G30
DX 23A	¶ 8	D58; G21
DX 23A	¶ 9	D59; G21; G55; G75
DX 23A	8-9 & 15	G24
DX 23A	9 & 15	G24; G76
DX 23A	¶ 20	D59; G21; G28; G31; G73; G77; H5; H33; M11; M14; M22
DX 23A	¶ 15	D63
DX 23A	¶ 14	D63

Exhibit	Portions Cited	Cited At
DX 23A	¶ 16	D67
DX 23A	¶ 17	D63
DX 23A	¶¶ 4-5; 11; 20	F23
DX 23A	¶¶ 8-9	G21
DX 23A	¶ 16 & Ex.O	H7; H20
DX 23A	¶¶ 11; 20	M14
DX 23A	¶¶ 4-5	M14
DX 24	¶ 6	B28; C27
DX 24	¶ 5	B28; C26; C32; C51; G36
DX 24	¶ 4	C47
DX 24	¶ 7	C32; C51; D61; M11; M14; M22
DX 24	¶ 60	C62
DX 24	¶ 25	C63
DX 24		D53
DX 24	¶¶ 4-5	D60; H31; M14
DX 30		C28; G28; H8
DX 31		C28; H8
DX 32	ESP 7042	C21
DX 32		C28; D10; F3; G29; H8
DX 32	ESP 7039-42	C28
DX 32	ESP 7031	C28
DX 32	ESP 7039	D7
DX 32	ESP 7040	H25
DX 33	B 2592	H10
DX 33	B 2612	H10
DX 36		C21; C37; C50; H8
DX 37	ESP 6818	C22; C28; C29; H7; H19; H20; H21
DX 37		C27; C31; F3; H7; H8; H21; H22
DX 37	ESP 6817-18	C36
DX 37	ESP 6815	G73; H7; H19

Exhibit	Portions Cited	Cited At
DX 41		C31; C32; C50; F3; H7; H24
DX 42	FN 1815	A6; A19; A20; A24; F8; F9; F12; F29; F33; G41; G42;
DX 42		A4; A14; A22; C33; D1; E9; H7; M3; M5
DX 42	FN 1833	C33
DX 42	18-19	C35
DX 42	34-38	C37
DX 42	36	C37
DX 42	FN 1792	A4
DX 42	FN 1794	D2; M3
DX 42	FN 1795-96	D3; G43; M5
DX 42	FN 1796	D3; D4; G44; G80
DX 42	FN 1795-97	G44; G50; G52; G80
DX 42	FN 1797	D4; G44
DX 42	FN 1800	D38
DX 42	FN 1801; 1825	F2
DX 42	FN 1802-03	F5
DX 42	FN 1796-97	D81; F7; H13
DX 42	FN 1824-25	F7
DX 42	FN 1825-26	F8; H24
DX 42	FN 1807; 1815; 1826; 1837	F8
DX 42	FN 1807	F12; F15; F30; F34
DX 42	FN 1807 lns. 7-9	A27
DX 42	FN 1817-19	G71
DX 42	FN 1819	A21; F18
DX 42	FN 1825	F23; G45
DX 42	FN 1827	G45
DX 42	FN 1828	G45
DX 42	FN 1837	F8; F15
DX 42	FN 1814	A18-19; A20; A23
DX 42	FN 1814-15	A20; A24
DX 42	FN 1816	A17; F10; F29; F33; F34
DX 42	FN 1815-16	J16
DX 42	FN 1815-17	A17; A20; D38

Exhibit	Portions Cited	Cited At
DX 42	FN 1826	H10
DX 42	FN 1792	A4; L2
DX 42	FN 1840	A21; D38
DX 46		C38; F31; H4; H27
DX 46	FN 1884	H13
DX 47	FN 1887	C38; D41; F7
DX 47		F3
DX 48		F3; F16; H17
DX 48	FN 1891	H16
DX 50		B26; B32; C22; C29; C41; D44; D62; D88; E16; E18; E26; F3; G22; G31; K59
DX 50	ESP 131	D28; D59; G22; G58; G68; G75; H4; H8; K41
DX 52		B20; C19; C31; C39; C54; G21; H8; H21; H22; H23; H25; M8
DX 52	ESP 514	C16; C20; F6; F19; F20; F34; H21; H22; H23; H25
DX 52	ESP 503	C19; C20; F19; F20
DX 61		C31; F3; H7; H24
DX 61	ESP 1135	H20
DX 61		H21; H22
DX 62		G31
DX 63		C28; C41; D29; D44; D46; D63; E16; F3; G31; G34; G55; G58; G68; H8
DX 66	ESP 8733	A23; A24; A25; C34; D31; F22; G41
DX 66		C32; C33; F3; F20;
DX 66	ESP 8732-35	A22
DX 66	ESP 8736	D19
DX 79	24	F5
DX 114	1	C41
DX 114	1-2	C42
DX 114	2-3	C42; G56
DX 115		A30; C71; D49
DX 115	FN 4129	F3; F13; F14

Exhibit	Portions Cited	Cited At
DX 115	8	F34
DX 115	FN 4128 - FN 29	L9
DX 115		K5; K15; K18
DX 117	7-8	H34
DX 119		B26; C23; C30; C37
DX 133		C17; C18
DX 145		B29; B32; B30; C17; C28; C29; D32; E16; E26; G29; H11; I5; I8
DX 145	1	I11; I12
DX 145	1, 2	B30
DX 145	ESP 17397	B29; C17; C29; ; D33; H10; H11; G12;
DX 146		C31
DX 147		C34; F22
DX 159	3	C33
DX 159		B27; C25; D31; F3; F20
DX 182		H10
DX 182	17	C13
DX 182	18	C13
DX 182	97	C16
DX 182	97-99	C14; F9
DX 182	98-99	G9
DX 203	Col. 5; ll. 60-62	B11
DX 203		B11; C18; H12; K27
DX 203	B 10332	B11; B12
DX 203	B 10333	B13
DX 203	B 10337	B13
DX 203	Col. 1; lns. 51-52	B11
DX 203	Col. 5-6	B11
DX 203	Col. 3 lns. 2-4	B2; B3
DX 203	Col. 3 lns. 3-4	C18
DX 203	Col. 6 lns. 2-5	I9
DX 203	Col. 26:13--28:39	D35
DX 235	934	C13
DX 235	932-34	C14
DX 235	833	F9

Exhibit	Portions Cited	Cited At
DX 235		F3; F17; H10
DX 235	933-34	F17; F19; M14
DX 280B		C31
DX 280C		C31
DX 288	1253	B21
DX 288	1283-89	D64
DX 288	1288-89	B20
DX 288	1497	G83
DX 288	1-70	A4; A14
DX 288	149-230	A4;
DX 288	257	A27
DX 288	814 ¶ 8	B20
DX 288	814 ¶ 19	B20
DX 288	826 ¶¶ 8; 15	B19; B22
DX 288	1816-20	G22
DX 288	1825	C18
DX 288	1826	C18
DX 288	1828	C19
DX 288	817; 819; 1242	C19
DX 288	1253	C20
DX 288	1830	C21
DX 288	820; 1821-1942 ¶¶ 21-22 & Ex. N	B26; B27; C23; C25
DX 288	620-22	C45
DX 288	665-740	C46
DX 288	737	C47
DX 288	843	C54
DX 288	852	C54
DX 288	855-56	C55
DX 288	3659-60	C55
DX 288	3220	C55
DX 288	3281	H13
DX 288	1283-89	D26
DX 288	2716-17	D36
DX 288	2720	D36
DX 288	1283-89	D39; D64
DX 288	329-1470	D50; D61

Exhibit	Portions Cited	Cited At
DX 288	155-87	D50
DX 288	231-41	D51
DX 288	242-88	D51
DX 288	266	A17; D51
DX 288	222-27	D51; A29
DX 288	226	D52
DX 288	1471-83	D52
DX 288	2674	G83
DX 288	2673-79	D52
DX 288	289-290	D53
DX 288	1497-1500	D53
DX 288	1505	D53; G83
DX 288	2673-79	D53
DX 288	724-55	D63
DX 288	1365-1470	D63
DX 288	Ex. M 2	D64
DX 288	Ex. M 2-3	D64
DX 288	Ex. O 1342-64	D67; G77
DX 288	688-708	D66
DX 288	709-23	D66
DX 288	721	D66
DX 288	1342-64	D67
DX 288	767; 775-777; 810	F2; F3
DX 288	00732-37	F6
DX 288	FN 1807	F8
DX 288	FN 1814	F8
DX 288	1894; 1900	F8
DX 288	767	F15
DX 288	730-31; 810	F15
DX 288	767; 776	F15
DX 288	775-77; 810	F16
DX 288	1253	F19
DX 288	817; 819; 1242	F19
DX 288	777	F14; F15
DX 288	738	H30
DX 288		G58; M14

Exhibit	Portions Cited	Cited At
DX 288	212	M14; M25
DX 288	839	M14
DX 288	872	M14
DX 288	212, col. 20; lns. 20-30	M15
DX 288	204, col. 4; lns. 38-41	M29
DX 288	188	M25; M32
DX 289	56-57	C37; H15
DX 289	col. 18	H9
DX 293		H10
DX 293	62-63	C14; C15
DX 293	64	C16
DX 293	63	C16; C17; G10
DX 293	62-63	F9
DX 298		B4; B35; E30
DX 303		C37; C50
DX 387		D35; G13
DX 398	B 9795	B14; D36; D60; G48
DX 398		C17; C39; D89
DX 401		B14; G48
DX 401		C39
DX 441		B17; C17; C18; C39
DX 484		B20; C19; F3; H21; H22; H23; H25; K20
DX 484	ESP 492	C19; F19; H7
DX 488	35-37	H33
DX 548		F3
DX 551		B19; B22; B26; F3; G21
DX 551		C22; C23
DX 551		F3
DX 554		C30